

**REMARKS**

The indication of allowable subject matter in claim 7 is acknowledged and appreciated. In view of the following remarks, it is respectfully submitted that all claims are in condition for allowance.

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Kobayashi et al.. This rejection is respectfully traversed for the following reasons.

Claim 1 recites in pertinent part, "projecting portions provided at each **both** ends of said disc selecting lever ..., **both** of which the projecting portions abut on the disc to push down the disc when a large-diameter disc is transported" (emphasis added). In contrast, as shown in Figure 9 of Kobayashi et al., the alleged projecting portion at only one end of the alleged disc selecting lever 34 abuts the disc when a large-diameter disc 101 is transported, whereas the alleged projecting portion at the other end adjacent element 130 is arranged away from the disk 101 (i.e., non-abutting relation) when a large-diameter disc 101 is transported. As described on page 19, line 17 - page 20, line 11 of Applicants' specification corresponding to an exemplary embodiment, the arrangement of the present invention whereby both projecting portions 8a, 8b abut the large-diameter disc allows the disc to be transported without being abutted with the small-diameter disc latch member 6 in a novel and non-obvious manner for the claimed combination.

Further, Kobayashi et al. expressly discloses that the large-diameter disc 101 pushes away the disc guide plate 34 having the alleged projecting portions thereon (see col. 5, lines 23-28 corresponding to Figure 9), rather than the alleged projecting portions acting to push down the disc 101. That is, the disc 101 is doing the pushing and the projecting portions are being pushed when the disc is being transported.

As anticipation under 35 U.S.C. § 102 requires that each and every element of the claim be disclosed in a single prior art reference, *Akzo N.V. v. U.S. Int'l Trade Commission*, 808 F.2d 1471 (Fed. Cir. 1986), based on the forgoing, it is submitted that Kobayashi et al. does not anticipate claim 1, nor any claim dependent thereon. Accordingly, it is respectfully requested that the rejection of claim 1 under 35 U.S.C. § 102 be withdrawn.

Claim 6 stands rejected under 35 U.S.C. § 103 as being unpatentable over Kobayashi et al. in view of Sato et al.. This rejection is respectfully traversed for the following reasons. Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.*, 819F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as claim 1 is patentable for the reasons set forth above and further because Sato et al. does not overcome the deficiencies of Kobayashi et al., it is respectfully submitted that dependent claim 6 which depends on claim 1 is also patentable. In addition, it is submitted that claim 6 is patentable based on its own merits by adding novel and non-obvious features to the combination. Accordingly, it is respectfully requested that the rejection of claim 6 under 35 U.S.C. § 103 be withdrawn.

Further, as non-elected claims 2-5 depend on allowable claims, rejoinder thereof is respectfully requested.


CONCLUSION

Having fully and completely responded to the Office Action, Applicants submit that all of the claims are now in condition for allowance, an indication of which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

MCDERMOTT, WILL & EMERY

for  #46,692  
Michael E. Fogarty  
Registration No. 36,139

600 13<sup>th</sup> Street, N.W.  
Washington, DC 20005-3096  
(202) 756-8000 MEF:MWE  
Facsimile: (202) 756-8087  
**Date: July 31, 2003**